

Murdo, Patricia

From: Bernhardt, Dan
Sent: Tuesday, November 01, 2005 11:34 AM
To: Murdo, Patricia
Subject: RE: update on SJR 35 study - subcommittee appointed

Pat,

In response to question #1:

My question would be *how* a Board actually protects the public health, welfare or safety. The authorization that they have is not set forth by the Board, but by the Legislation through Statute. The Board has the authority to create rules to help interpret the Statute, but it cannot conflict with the Statute. Is a Board member better qualified to be able render a decision by reading a Statute than a non Board member? Regardless of whom is making the decisions, ultimately the decision must be based upon the Statute that is already in place. Even in situations of disciplinary action, the possible scenario of what may and may not be imposed is set forth in Statute, either in the specific Board Statutes, or already in place by the legal system.

Question #2:

I think that how the fees should be determined is already set pretty tight. They are to be commensurate with the cost of running the Board or Program (Business and Occupational Licensing), and each Board or Program are only allowed a surplus of twice the annual appropriation. With that being said, if the fees cannot support the Board or Program, there would either need to be an increase not exceeding the allowed surplus, or there should be a review as to the need of that specific Board or Program.

Thanks,

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-----Original Message-----

From: Murdo, Patricia
Sent: Tuesday, November 01, 2005 10:13 AM
To: Bernhardt@DOAISD01006.state.mt.us; Bernhardt, Dan
Subject: update on SJR 35 study - subcommittee appointed

The Economic Affairs Committee agreed at its October 28 meeting to provide a subcommittee to work with the study groups on SJR 35 concerns. Members of the subcommittee are: Senator Vicki Cocchiarella, chair, and Representatives Tom McGillvray and Mike Milburn.

The first subcommittee meeting will possibly be in December but more likely in January. In the meantime, all the subgroups formed to address SJR 35 resolution topics should add to their discussion topics the following questions:

- 1) If no board existed (exists) for your profession or occupation, how would you prove it is necessary for public health, welfare, or safety?
- 2) How do you think fees should be determined?

There will not be any work group meetings prior to the first meeting with the subcommittee. However, the work groups can begin sharing ideas through email if they would like. Please let me know if you would like your email shared with the subgroup (and I will distribute email addresses to each subgroup) OR let me know if you would prefer to have a section of the Economic Affairs Committee website where you could share ideas with one another.

Thank you for your participation and willingness to work on how to improve professional and occupational licensing boards and programs in Montana. --

Pat Murdo

Legislative Services

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